

OUTLINE FOR INQUIRY PROCEDURES

It is hoped that these voluntary guidelines will permit the Select Committee investigation to proceed without undue delay, but it is also recognized that these guidelines do not cover all points or anticipate all problems and that, therefore, either the Select Committee or some agency* under investigation may have reason not to follow these suggested guidelines.

Also, it is recognized that this outline is without prejudice to the respective legal positions of the agencies and the Select Committee as to the production of specific information by way of documents or testimony. It is further recognized that these procedures do not in any way constitute a precedent for other committees of the Senate or House.

A. Classification of Interviews/Preliminary Testimony

The parties to this investigation by the Select Committee recognize that interviews/preliminary testimony to be conducted by the Committee staff will generally be of two separate and distinct natures.

(1) Those primarily seeking information concerning (A) the overall structure and functions of any agency or its relationship with other agencies or the Executive branch; (B) the substantive work done in the past or being done by the agency, including the legal bases relied upon and the requisite approval levels for authorization; and (C) the capacities of each agency and the responsibilities to provide information for other governmental entities.

(2) As designated by the Committee, those primarily concerning specific allegations of agency or Executive branch abuses or other controversial specific matters where there is reason to believe improprieties may have occurred.

An agency representative will be present, as a general rule, at interviews/preliminary testimony in the first category for the purpose of assisting the Committee's investigation and facilitating the protection of information important to the national interest which is pertinent to the investigation. Similarly, as a general rule, agency representatives will not be present at interviews/preliminary testimony in the second category. The parties recognize, however, that for special reasons exceptions can be made in either case: i.e., when good reason exists, endorsed by the Select Committee, agency representatives may not be present for interviews/preliminary testimony falling under the first category, and for good and sufficient reason the agency may have a representative present in the second category subject to the approval, of course, of the Select Committee.

B. Procedures

When the Select Committee has identified a specific subject as a potential abuse or impropriety and has so notified the agency involved of its designation, that agency will, subject to the second sentence hereof, make every reasonable effort to provide the Select Committee with all information and all materials that it has on the subject. The agency will also specifically indicate any of such materials which are extraordinarily sensitive in order to facilitate the mutual effort by the Committee and the agencies to provide special handling techniques to convey or secure any particularly sensitive information or materials as appropriate.

will be identified to the agency a reasonable time prior to interviews or taking sworn testimony. This general rule includes current employees, former employees or others who have or have had a relationship with the agency.

Exceptions

A. Where the Committee or its appropriate delegate, by written authorization, believes that prior identification of a witness could adversely affect the witness' willingness to be interviewed or to be forthcoming, or could otherwise hinder the investigation, such prior notice will not be given, but in such cases the agency shall be given a general indication of the points or areas to be covered to the extent that is feasible without undercutting the reason for not providing prior notice in the first instance.

B. In certain cases, the Committee might notify the agency, if the agency agrees not to contact the witness before his appearance. The agency could identify for the Committee special security matters concerning prospective witnesses and provide information on how to locate a witness.

(2) If the witness wishes to consult with the agency prior to his appearance, the Committee will not discourage or seek to interfere with that desire in any way and will help the witness contact the agency representative. The Committee will explain and make available the security arrangements between the Committee and the agency, the relevant waivers of secrecy oaths or agreements for the purpose of this inquiry, and these ground rules.

(3) Whenever they are not present at interviews or the taking of sworn statements, agency representatives will be available for consultations regarding the handling of special security matters.

(4) Whether or not an agency has notice of an interview or sworn statement, the Committee recognises that there may be matters

disclosed which are particularly sensitive from a security point of view and concerning which the agency should be advised in order to give it an opportunity to facilitate the mutual effort with respect to special handling techniques referred to above. With respect to such matters, the Committee will advise the agency as soon as possible and in a form which discloses the substance of such matters without making discernible the identity of a confidential source. In addition, the Committee will, prior to making any findings with respect to a matter, inform the agency of the substance of what was said in order to provide an opportunity for clarification or response.

(5) Whenever an agency receives prior notice of a particular interview or taking of a sworn statement, it will also be notified of the general subject areas and periods of employment in which the Committee is primarily interested as well as the date set for the appearance. The agency will then check the subject's personnel history file and promptly advise the Committee of any exceptionally sensitive aspects of the subject's employment or activity which require special handling.

(6) If, because of concern about security of sensitive information, a witness feels unable to give a responsive answer to a particular question, the witness shall so indicate to the interviewer. The questioner and witness may then consult with the agency representative with respect to an appropriate response which will facilitate the provision of pertinent information and its protection. These matters should be worked out forthwith and ordinarily before the close of the

(7) The Committee is responsible for providing special handling of interview notes and other working notes in a manner which will protect sensitive material. At the conclusion of the Committee's inquiry the Committee—in accordance with Committee Rules, the Rules of the Senate, and any previously made commitments to an agency—will consult with the agencies concerned regarding the appropriate disposition of any such notes which have not been destroyed following the preparation of finished Committee documents. The agencies will indicate which of these notes it feels are too sensitive to be stored under the Archives arrangement being established for the general disposition of the Committee's working papers and non-public reports.